

REMARKS

Applicants elect to pursue group I claims (claims 1-16) directed to a method of inhibiting apoptosis in a hematopoietic stem cell comprising contacting the cell with a caspase inhibitor. Applicants also elect z-VAD as a representative caspase inhibitor. Applicants traverse the determination of a lack of unity regarding the Markush group of claim 9 describing various caspase inhibitors. The action states that the caspase inhibitor lack a feature not known in the art. Applicants disagree. The novel feature is not the ability to inhibit caspase, but the ability to inhibit apoptosis in a hematopoietic stem cell. Also, as stated in MPEP 803.2 unity of invention exists where compounds included in a Markush group share a common utility and share a substantial structural feature essential to that utility. The common utility is the ability to inhibit apoptosis in a hematopoietic stem cell and the common structural feature is the structure for binding and inhibiting caspase. Furthermore, claim 9 is dependent from linking claim 1 that claims a caspase inhibitor generically. Thus, the non-elected inhibitors of claim 9 are subject of rejoinder if an elected inhibitor is found patentable.

Applicants have canceled claims 17-46 without prejudice and retain the right to pursue the subject matter of these claims in a divisional application.

It is believed that no additional fees are due with this communication, however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed document, the Commissioner is authorized to deduct or credit said fees from or to Fulbright & Jaworski Deposit Account No. 50-1212/MESC:008US.

The Examiner is invited to contact the undersigned attorney with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



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Date: March 31, 2010